

REMARKS

Claim Amendments

Claim 14 has been amended to incorporate the recitations of claim 20, with the "-" removed from between alkaline earth. Claim 17 has been amended according to the Examiner's recommendation to change "type" to "form." Applicants make no admissions regarding "type" allegedly being indefinite, and simply amend the claim to expedite prosecution. Further, claims 25-31 have been canceled.

New claim 45 depends from claim 14 and recites that the water repellant is selected from oleic acid and its alkali metal or alkaline earth metal salt. Support for this claim may be found throughout the application and at least at original claim 20.

Entry and consideration of the claim amendments is respectfully requested.

Art Rejections

Claims 14-31 stand rejected under 35 USC § 102(b or e) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over (1) Langford (USPubN 2006/0142456, USPubN 2005/0119388, or USPubN 2001/0023653), (2) Patel (USPN 5,779,786), (3) FR 2818635, or (4) EP 0496682. Applicants respectfully traverse these rejections.

Claim 14, as amended, recites:

A joint compound composition comprising:

- a) 50 to 60% of calcium sulphate hemihydrate;
- b) 5 to 15% of an organic binder in powder form; and
- c) 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salt.

Langford '456, '388, and '653 each have the a virtually identical disclosure and will be addressed together. Langford does not anticipate or render obvious the presently claimed invention. Langford does not teach or suggest each feature of the presently claimed invention. For example, Langford does not disclose the claimed feature (c) of representative claim 14. That is, Langford does not disclose a joint compound that has 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. Further, Langford does not disclose that the organic binder is in "powder form."

Langford relates to a **low dust** wall repair compound. Langford teaches that to achieve this low dust formulation, embodiments must have waxes, oils or surfactants. These waxes, oils and surfactants do not include the claimed amount/type of water repellent agent. Langford does disclose in Example 3 that the wax is mixed with stearic acid. However, the composition has 0.75% stearic acid, greater than the claimed amount of water repellent. Moreover, one skilled in the art would not be motivated to vary from the waxes, oils or surfactants as they are the necessary components to achieve the low dust properties that is the entire point of the Langford disclosure.

Thus, in contrast to the Langford disclosure, the presently claimed invention recites 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. Applicants have discovered that this specific type/amount of water repellent, in the claimed combination, gives unexpectedly beneficial results compared to the Langford composition. The presently claimed composition has the following qualities: good workability, a color compatible with that of the building elements for which they are intended, zero (or almost zero) shrinkage, and good mechanical properties. The presently claimed composition is also adapted to be applied as paint, particularly by applying as a paint with a roller, a brush or by airless spraying. Thus, the presently claimed composition allows tools adapted for large surfaces to be used.

In contrast, Langford requires certain components in order to be a "low dust" composition. Thus, the formulation of Langford is just a wall repair compound (see paragraph [0019]) that is adapted to be applied to small surfaces and is not a joint compound which can be applied as paint, particularly by applying the paint with a roller, a brush, or by airless spraying.

Accordingly, one skilled in the art would not be motivated to modify Langford to have the claimed amount/type of water repellent agent. The presently claimed invention is not anticipated or obvious over Langford.

Patel does not anticipate or render obvious the presently claimed invention. Patel does not teach or suggest each feature of the presently claimed invention. For example, Patel does not disclose the claimed features (b) or (c) of representative claim 14. That is, Patel discloses the use of only 0.6 to 4% of an agent to retard the

setting (from column 5, line 57 to column 6, line 10). The agent can be a polymer composition that includes acrylic acid and acrylamide monomer units, that is to say an organic binder. Further, Patel does not disclose (at any amount) a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts.

Accordingly, one skilled in the would not be motivated to modify Patel to arrive at the presently claimed invention (the Office has not established a *prima facie* case of obviousness). The presently claimed invention is not anticipated or obvious over Patel.

FR '635 does not anticipate or render obvious the presently claimed invention. FR '635 does not teach or suggest each feature of the presently claimed invention. For example, FR '635 does not disclose the claimed feature (c) of representative claim 14. That is, FR '635 does not disclose (at any amount) a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. In contrast, FR '635 discloses the use of 0.3-10% of one or more salts of the group of the alkali metal and alkaline earth metal salts of *short-chain* fatty acids, which have from 1 to 4 carbon atoms in the hydrocarbon skeleton and from 1 to 4 carboxyl groups. Oleic and stearic acids are long chain fatty acids that are not obvious variants of the short chain fatty acids.

Accordingly, one skilled in the would not be motivated to modify FR '635 to arrive at the presently claimed invention (the Office has not established a *prima facie* case of obviousness). The presently claimed invention is not anticipated or obvious over FR '635.

EP '682 does not anticipate or render obvious the presently claimed invention. EP '682 does not teach or suggest each feature of the presently claimed invention. For example, EP '682 does not disclose the claimed features (b) or (c) of representative claim 14. That is, EP '682 discloses the use of 7 to 25% of a polymer as a redispersible polymer. This is not the same as the claimed organic binder. Further, EP '682 does not disclose (at any amount) a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts.

Accordingly, one skilled in the would not be motivated to modify EP '682 to arrive at the presently claimed invention (the Office has not established a *prima facie* case of obviousness). The presently claimed invention is not anticipated or obvious over EP '682 .

Further, claims 14-31 stand rejected under 35 USC § 103(a) as being obvious over any of (1)-(4) in view of (5) Sellers (USPN 5,135,805), (6) Shoshany (6,902,615, (7) Seto (JP 55027807) or (8) Akasaka (JP 49001622). Applicants respectfully traverse these rejections.

The Office relies on Sellers to (allegedly) "teach adding siloxane to waterproof gypsum compositions." However, the claimed joint compound has 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. Accordingly, Sellers, in combination with any of the primary references, does not render the presently claimed invention obvious.

The Office relies on Shoshany to (allegedly) teach "it is known in the art to add wax to gypsum compositions to impart water resistance." However, the claimed joint compound has 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. Accordingly, Shoshany, in combination with any of the primary references, does not render the presently claimed invention obvious.

The Office relies on Seto to (allegedly) teach "it is known in the art to add fatty acids salts as water repellents to gypsum compositions." Specifically, Seto recites (in the abstract) adding 1% fatty acid metal salt emulsion. However, the claimed joint compound has 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. Accordingly, Seto, in combination with any of the primary references, does not render the presently claimed invention obvious.

The Office relies on Akaska to (allegedly) teach "it is old in the art to add stearic acid to waterproof gypsum board." Specifically, Akaska recites (in the

abstract) adding 1-10 % stearic acid or its salts. However, the claimed joint compound has 0.05 to 0.2% of a water repellent selected from the group consisting of oleic acid, stearic acid and their alkali metal or alkaline earth metal salts. The Examiner is reminded that applicants have discovered that this specific type/amount of water repellent, in the claimed combination, gives unexpectedly beneficial results compared to the art. Accordingly, Akaska, in combination with any of the primary references, does not render the presently claimed invention obvious.

§ 112 Rejections

Claims 17, 20 and 28 stand rejected under 35 USC § 112, second paragraph. Applicants respectfully assert that the amendment to claim 17 and cancellation of claims 20 and 38 render this rejection moot. Accordingly, the Examiner respectfully requested to withdraw the rejection.

Conclusion

For at least the reasons stated above, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections and objections, and to allow the present application.

In the event that there are any questions concerning this amendment, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

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